



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2867



Connecticut Waste Oil, Inc
PO Box 179
Meriden, CT 06450

**NOTICE OF PROPOSED
ADMINISTRATIVE FINE
AND HEARING**

No. AF 02-30

SEPTEMBER 25, 2002

I. INTRODUCTION

This Notice of Proposed Administrative Fine and Hearing is issued by the Department of Environmental Services, Waste Management Division ("the Division") to Connecticut Waste Oil, Inc. pursuant to RSA 147-a:17-a and Env-C 601.05. The Division is proposing that a fine of \$20,000 be imposed against Connecticut Waste Oil, Inc. for the violations alleged below. **This notice contains important procedural information. Please read the entire notice carefully.**

II. PARTIES

1. The Department of Environmental Services, Waste Management Division, is an administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Connecticut Waste Oil, Inc. ("CWO") is a Connecticut corporation having a mailing address of P.O. Box 179, Meriden, CT 06450.

III. SUMMARY OF FACTS AND LAW SUPPORTING CLAIM(S)

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100 – 1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. RSA 147-A:6, I states "Any transporter of hazardous waste within the state shall annually register with [DES] using forms provided by [DES] before engaging in the transportation of hazardous wastes."
4. DES first issued New Hampshire Hazardous Waste Transporter Registration Number TNH-0178 (the "Registration") dated July 7, 1992, to CWO to transport hazardous waste in New Hampshire.
5. On June 13, 2000, DES issued CWO a Registration to transport hazardous waste in New Hampshire.

6. On June 25, 2001, DES issued to CWO to revoke the Registration, Notice of Proposed License Action No. LA 01-05.

7. After its Registration had been revoked CWO transported used oil from New Hampshire generators as follows:

<u>Manifest #</u>	<u>Date</u>	<u>Quantity</u>
CTF0823656	4/30/02	270 gallons
CTF0823655	4/30/02	170 gallons
CTF0984636	5/15/02	250 gallons
CTF0984635	5/15/02	295 gallons
CTF1107151	6/25/02	310 gallons
CTF1107150	6/25/02	250 gallons
CTF1106815	7/10/02	310 gallons
CTF1106814	7/10/02	250 gallons
CTF1107035	7/24/02	300 gallons
CTF1107036	7/24/02	250 gallons

8. At the time the used oil as described in Paragraph 7 was transported, CWO was not a registered hazardous waste transporter in New Hampshire.

9. CWO is not currently registered to transport hazardous waste in New Hampshire.

10. CWO transported hazardous waste on ten separate occasions from New Hampshire without being a registered hazardous waste transporter.

IV. VIOLATIONS ALLEGED

1. CWO has violated RSA 147-A:6, I by failing to obtain a New Hampshire Hazardous Waste Transporter Registration prior to transporting hazardous waste within the State of New Hampshire.

V. PROPOSED ADMINISTRATIVE FINES

1. For the violation identified in IV.1, above, Env-C 612.02(d) specifies a fine of \$2,000 per load transported without being registered. For the violation noted above, the Division is seeking a total fine of \$20,000.

The total fine being sought is \$20,000.

VI. REQUIRED RESPONSE, OPPORTUNITY FOR HEARING

Pursuant to Env-C 601.06, Connecticut Waste Oil is required to respond to this notice. Please respond no later than October 25, 2002, using the enclosed form as follows:

If Connecticut Waste Oil, Inc. plans to attend the hearing, please have an authorized representative sign the appearance (upper portion) and return it to the DES Legal Unit, at the address as noted on the form.

2. If Connecticut Waste Oil, Inc. chooses to waive the hearing and pay the proposed fine, please have an authorized representative sign the waiver (lower portion) and return it **with payment of the fine** to the DES Legal Unit.
3. If Connecticut Waste Oil, Inc. wishes to discuss the possibility of settling the case, please have an authorized representative sign the appearance and return it to the DES Legal Unit **and** call the DES Legal Unit to indicate Connecticut Waste Oil, Inc.'s interest in settling.

Connecticut Waste Oil, Inc. is not required to be represented by an attorney. If Connecticut Waste Oil, Inc. chooses to be represented by an attorney, the attorney must file an appearance and, if a hearing is held, submit proposed findings of fact to the person conducting the hearing.

If Connecticut Waste Oil, Inc. wishes to have a hearing but is unable to send an authorized representative to the hearing as scheduled, Connecticut Waste Oil, Inc. must notify the DES Legal Unit at least one week in advance of the hearing and request that the hearing be rescheduled. If Connecticut Waste Oil, Inc. does not notify the DES Legal Unit in advance and does not have an authorized representative attend the hearing, the hearing will be conducted anyway in accordance with Env-C 204.09.

VII. DETERMINATION OF LIABILITY FOR ADMINISTRATIVE FINES

Pursuant to Env-C 601.09, in order for any fine to be imposed after a hearing, the Division must prove, by a preponderance of the evidence, that Connecticut Waste Oil, Inc. committed the violation(s) alleged and that the total amount of fine(s) sought is the appropriate amount under the applicable statute and rules. Proving something by a preponderance of the evidence means that it is **more likely than not** that the thing sought to be proved is true.

If the Division proves that Connecticut Waste Oil, Inc. committed the violation(s) and that the amount of fine(s) sought is the appropriate amount under the applicable statute and rules, then the fine(s) sought will be imposed, subject to the following:

Pursuant to Env-C 601.09(c), the fine will be **reduced by 10%** for each of the circumstances listed below **that Connecticut Waste Oil, Inc. proves, by a preponderance of the evidence,** applies in this case:

The violation was a one-time or non-continuing violation, **and** Connecticut Waste Oil, Inc. did not know about the requirement when the violation occurred, **and** the violation has not continued or reoccurred as of the time of the hearing, **and** any environmental harm or threat of harm has been corrected, **and** Connecticut Waste Oil, Inc. did not benefit financially, whether directly or indirectly, from the violation.

- 2 At the time the violation was committed, Connecticut Waste Oil, Inc. was making a good faith effort to comply with the requirement that was violated.

3. Connecticut Waste Oil, Inc. has no history of non-compliance with the statutes or rules implemented by DES or with any permit issued by DES or contract entered into with DES.
4. Other information exists which is favorable to Connecticut Waste Oil, Inc.'s case which was not known to the Division at the time the fine was proposed.

IMPORTANT NOTICE

An administrative fine hearing that has been scheduled is a formal hearing. Any hearing will be tape recorded, and all witnesses will testify under oath or affirmation. At the hearing, the Division will present testimony and evidence to try to prove that you committed the violation(s) alleged above and that the fine(s) should be imposed. **The hearing is Connecticut Waste Oil, Inc.'s opportunity to present testimony and evidence that Connecticut Waste Oil, Inc. did not commit the violation(s) and/or that the fine(s) should not be imposed, or that the fine(s) sought should be reduced.** If Connecticut Waste Oil, Inc. has any evidence, such as photographs, business records or other documents, that Connecticut Waste Oil, Inc. believes show that Connecticut Waste Oil, Inc. did not commit the violation(s) or that otherwise support Connecticut Waste Oil, Inc.'s position, Connecticut Waste Oil, Inc. should bring the evidence to the hearing. Connecticut Waste Oil, Inc. may also bring witnesses (other people) to the hearing to testify on Connecticut Waste Oil, Inc.'s behalf.

If Connecticut Waste Oil, Inc. wishes to have an informal meeting to discuss the issues, Connecticut Waste Oil, Inc. must contact the DES Legal Unit at (603) 271-6072 to request a prehearing conference.

* * * * *

Information regarding this proposed fine may be made available to the public via DES's Web page (www.state.nh.us/des). If Connecticut Waste Oil, Inc. has any questions about this matter, please contact the DES Legal Unit, at (603) 271-6072.

COPY
Philip J. O'Brien, Director
Waste Management Division

Enclosure (NHDES Fact Sheet #CO 2000)

cc: DB/File
Gretchen Rule, DES Legal Unit
Susan Alexant, DES Legal Unit
Tammy Calligandes
Christine Gleason, CT DEP